



PRESS RELEASE

House Armed Services Committee

Floyd D. Spence, Chairman

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OPENING STATEMENT BY CHAIRMAN FLOYD D. SPENCE

FULL COMMITTEE HEARING ON ENCRYPTION

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The committee meets this morning to renew its consideration of encryption and the impact on U.S. national security of pending legislation that proposes to remove controls on the export of encryption products. The issue of encryption – the encoding or scrambling of electronic data to protect its contents from unwanted disclosure – is technical and complex, but its importance to U.S. national security cannot be overemphasized.

The committee has the bill H.R. 850 – the Security and Freedom through Encryption, or so-called “SAFE” Act – on sequential referral until July 23rd. Due to the serious national security implications of H.R. 850, I plan to hold a markup of the legislation during the week of July 19th. As many of my colleagues know, H.R. 850 is similar to legislation proposed two years ago, legislation which the committee amended in order to retain some export controls on encryption software. The committee alternative was adopted two years ago on a strong bipartisan vote of 45-1.

I continue to believe that the unrestricted export of sophisticated encryption products, which is exactly what H.R. 850 would allow, carries serious national security risks for our nation. In fact, not only does H.R. 850 decontrol the export of encryption software, it also lifts controls on the export of all computers that contain encryption software. This little-noticed element of H.R. 850 would essentially “gut” the tightened restrictions Congress mandated two years ago on the export of supercomputers to potentially dangerous end-users like China. In the context of the recent Cox committee report and growing concerns over the transfer of sophisticated U.S. technologies to countries of proliferation concern, H.R. 850’s decontrol of encryption and some computer exports makes no sense to me.

But let me also be clear about what this debate is and is not about. This is not a debate over the right of American citizens to use strong encryption products here at home to conduct financial transactions or to send secure communications over the internet with confidence. With the growth in electronic commerce and communications, the need for information security is well recognized.

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However, I believe that removing controls on the export of strong encryption products will significantly weaken the ability of the United States to protect its citizens against terrorists, drug dealers and other criminals in the future. It would be tragically ironic, in my opinion, for Congress to make it easier for terrorists to conceal their planning at the same time we are working to enhance the security of all Americans against terrorist threats through initiatives such as improved embassy security and by devoting additional resources to counterterrorism.

From a strictly military perspective, a significant part of America's tactical advantage on the battlefield rests not only on our ability to ensure the security of our own military communications, but also on our ability to intercept our enemies' communications. The Allied victory in World War II was in no small measure made possible by our success in breaking the codes used by Germany and Japan. Unfortunately, the unchecked proliferation of sophisticated American encryption technology will only complicate the ability of U.S. military forces to fight and win future battles.

We all realize that as technology continues to advance, preventing its spread and its use against us becomes more challenging. Despite this challenge, however, I strongly believe that the U.S. Government should not, as a matter of policy, do anything to make it easier for a terrorist to harm Americans, drug dealers to ply their deadly trade, or an enemy on the battlefield to gain tactical advantage over our forces that might result in higher casualties or a protracted conflict. This is what the national security debate over encryption is about.

In my view, H.R. 850, the inappropriately named "SAFE" Act, will, in fact, increase the risk to Americans. Accordingly, we are fortunate to have before us this morning two Department of Defense witnesses who are uniquely qualified to address the serious national security implications of H.R. 850. They are:

- The Honorable John Hamre, Deputy Secretary of Defense; and
- Barbara McNamara, Deputy Director of the National Security Agency.

I welcome both of you to the committee.

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